

STATE OF NEW HAMPSHIRE

INSURANCE DEPARTMENT

In re: Robert S. Netzel

Docket No.: INS No. 18-050-EP

PROPOSED DECISION AND ORDER

This matter was heard before the undersigned Hearing Officer on November 29, 2018. Robert S. Netzel was served with an Order to Show Cause and Notice of Hearing by first class and certified mail. (NHID Exhibit 1; offer of proof of Deputy Enforcement Counsel Sherry Eldridge) Mr. Netzel acknowledged receipt of the Order to Show Cause and Notice of Hearing in an email dated November 2, 2018. (Exhibit 1, pages 15,16)

The hearing was called to order at 10:00 AM, as scheduled. Mr. Netzel did not appear. Pursuant to RSA 400-A:19, VII the hearing proceeded without Mr. Netzel. Present were the Hearing Officer, Deputy Enforcement Counsel Eldridge and Hearing Clerk Karen Cassin. Hearing Clerk Cassin recorded the proceedings as required BY Ins. 203.01 (d) (7). NHID called one witness, Licensing Supervisor, Joan Lacourse.

Licensing Supervisor Lacourse offered testimony regarding NHID Exhibits 2, 10, 3 and 4. Her testimony established the following facts which the Hearing Officer specifically finds were proven by a preponderance of the evidence presented. (See Ins. 204.05 (a) and (c)):

- 1. Mr. Netzel held a Non-resident Adjuster's license issued to him at the address where notice was served.**
- 2. Mr. Netzel's application materials and licensee summary indicated a Designated Home State of Texas.**
- 3. His application was submitted with input from representatives of Mr. Netzel's employer, USAA. The application was processed through the**

National Insurance Producer Registry ("NIPR) and was dated June 18, 2018.

- 4. Mr. Netzel's NIPR application (Exhibit 3) included a negative response to the following question: "Have you ever been named or involved as a party in an administrative proceeding...regarding any professional or occupational license or registration?" The application was attested to under the pains and penalties of perjury.**
- 5. Subsequently, the NHID became aware of three enforcement actions against Mr. Netzel, all reflected in Exhibit 4, a report from the Regulatory Informational Retrieval Service ("RIRS") maintained by the National Association of Insurance Commissioners. One of those actions, from the State of Washington, pre-dated Mr. Netzel's June 18, 2018 application. The report indicates the action was based on failure to remit premiums to an insurer, resulting in a license revocation on April 18, 2018.**

Ms. Lacourse testified that the information contained in Exhibit 4 led to a referral to the Office of Enforcement Counsel. Ms. Lacourse offered no further testimony.

The hearing proceeded with an offer of proof from Deputy Enforcement Counsel Eldridge. That offer of proof focused on NHID Exhibits 5 through 9. Based on that offer of proof and the contents of the Exhibits the Hearings Officer finds that the following additional facts were proven by a preponderance of the evidence:

- 6. The action of The State of Washington Office of the Insurance Commission was based on conduct undertaken by Mr. Netzel as an insurance producer working for Patriot Bonding, LLC.**
- 7. In that capacity Mr. Netzel accepted a \$640.00 premium payment for a surety bond that was never issued, yet failed to refund the consumer who had paid the premium.**

- 8. Exhibit 5, the order issued in Washington establishes the underlying facts of that action, including Mr. Netzel's non-responsiveness to the consumer seeking the refund, and a false statement to the consumer that a refund check was on the way. The order establishes that Mr. Netzel made false statements regarding his claimed inability to place the surety bond. One company advised the Washington Office of The Insurance Commissioner that it had terminated its appointment of Mr. Netzel for an unrelated matter involving a failure to remit payment to it in the amount of \$25,488.00.**
- 9. Mr. Netzel's producer's license was revoked for those actions on April 18, 2018.**
- 10. In Mr. Netzel's November 2, 2018 email acknowledging receipt of the NHID's Order to Show Cause and Notice of Hearing he made representations denying knowledge of the Washington revocation and asserting that he had contacted The Washington Office of Insurance Commissioner regarding reconsideration of the revocation.**
- 11. The records entered at Exhibit 5 show the order in question was sent to Mr. Netzel at the same Arizona address at which the NHID's Notices reached him and to the same email address Mr. Netzel used to email the NHID.**
- 12. Deputy Enforcement Counsel Eldridge contacted the Washington Insurance Commissioner's Office and learned that Mr. Netzel had taken no steps to request a reconsideration hearing regarding his revocation.**
- 13. Deputy Enforcement Counsel Eldridge reviewed Exhibit 6, an August 6, 2018 denial of Mr. Netzel's license application by the Connecticut Department of Insurance. Mr. Netzel's application was denied for making a false statement in that application; specifically non-disclosure of the enforcement action taken in Washington. Attorney Eldridge made inquiry and learned that Mr. Netzel had taken no steps to appeal the Connecticut decision.**
- 14. In Mr. Netzel's November 2, 2018 email to the NHID he references a license denial in North Carolina, the subject of paragraph 10 of The**

NHID Order to Show Cause and Notice of Hearing. In the email he asserts his plan to take steps to have that decision reversed. The documents from North Carolina marked as Exhibit 7 show that Mr. Netzel was notified of the affirmation of the original denial on August 23, 2018 and notified of a 30 day review deadline. Attorney Eldridge made inquiry and determined that Mr. Netzel did not seek such a review.

15. Deputy Enforcement Counsel Eldridge introduced Exhibit 9, documentation provided by Mr. Netzel's employer, USAA, on October 10, 2018 in response to the NHID's Initial letter dated September 27, 2018 to Mr. Netzel advising him of the investigation being undertaken by Enforcement Counsel.
16. The documents marked as Exhibit 9 include letters signed by Mr. Netzel and dated October 5, 2018, October 2, 2018 and October 4, 2018. Those letters set forth Mr. Netzel's account of the various enforcement proceedings taken against him. Deputy Enforcement Counsel Eldridge reviewed inconsistencies between those accounts and documents in the record, the following of which this hearing Officer finds to be material:
 - A. Mr. Netzel repeatedly denies notice of actions taken against him when exhibits offered show notices were sent to his physical address, email address, or both.
 - B. Mr. Netzel claims he has the right to appeal the North Carolina decision against him but claims he was told he must be represented by an attorney. The North Carolina documents show his appeal period has expired and that he was advised of *the right* to have counsel, not that he *must* have counsel.
 - C. Mr Netzel repeatedly claims to be unaware of the reasons for various proceedings against him despite the evidentiary record to the contrary.

After submission of the offer of proof, Deputy Enforcement Counsel Eldridge reviewed the Department's bases for requesting revocation of Mr. Netzel's license. Those grounds were (1) that Mr. Netzel's false statements regarding the Washington enforcement proceedings set forth in his New Hampshire application constituted good cause under RSA 402-B:12; (2) that the false statement in his New Hampshire application established Mr. Netzel was not of good character under RSA 402-B:7 and (3) that the pattern of false statements made in the proceedings in California, Connecticut and North Carolina further establish that Mr. Netzel is not of good character under RSA 402-B:7.

The closing remarks of Deputy Enforcement Counsel Eldridge were completed at approximately 11:05 AM. Clerk Cassin re-checked at the NHID reception desk and confirmed that Mr. Netzel had not appeared.

Based on the testimony and documentary evidence presented, the offer of proof and the closing remarks of Deputy Enforcement Counsel Eldridge the Hearing Officer reached the following conclusions of law:

- 1. Robert S. Netzel is not properly qualified and of good character and therefore, is not entitled to be licensed as an Insurance Claims Adjuster pursuant to RSA 402-B:7.**
- 2. The commissioner has established good cause and met all procedural requirements set forth in Ins PARTs 203 and 204 for the revocation of the Insurance Claims Adjusters license of Robert S. Netzel pursuant to RSA 402-B: 12.**

Pursuant to the foregoing, the Hearing Officer recommends that the Commissioner adopt and approve the findings of fact set forth above as numbered 1-16, adopt and approve the rulings of law set forth above as numbered 1 and 2, and that the Commissioner revoke the Insurance Claims Adjusters license of Robert S. Netzel.

A handwritten signature in black ink, appearing to read 'D. Ducharme', with a long horizontal flourish extending to the right.

Dennis T. Ducharme

December 20, 2018